



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

AUG 23 2017

Ref: 8ENF-W-WO

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. William F. Leonard, Register Agent
Great Western Railway of Colorado, LLC
252 Clayton, Street 4th Floor
Denver, Colorado 80206

Re: Request for Information Pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318(a),
NRC Report No. 1130799

Dear Mr. Leonard:

The Environmental Protection Agency is investigating the discharge of diesel fuel that occurred on or about October 13, 2015, within the City of Ft. Collins, Colorado, near the intersection of South Lemay Avenue and Riverside Avenue. The report we received indicates that diesel fuel discharged from a train tanker car owned and/or operated by Great Western Railway of Colorado, LLC (Great Western Railway). Pursuant to section 308 of the Clean Water Act (Act), 33 U.S.C. § 1318, the EPA has the authority to request information pertinent to carrying out its responsibilities under the Act.

Our purpose in sending this letter is to request that Great Western Railway provide information to assist the EPA in further evaluating the discharge. The EPA is requesting, pursuant to the above-referenced statutory authority, that you respond to the enclosed Request for Information (RFI) for the discharge. Please answer each question in the enclosure, including subparts of the question. The RFI Statement of Certification must be signed by a duly authorized official of your company.

Although the response to the RFI must be submitted to the EPA, you may be entitled to assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in 40 C.F.R. Part 2, Subpart B. Unless a confidentiality claim is asserted at the time the RFI is submitted, the EPA may make the information available to the public without further notice to you.

Section 309 of the CWA, 33 U.S.C. § 1319, provides for administrative and civil penalties of up to \$52,414 per day of violation for failure to comply with this RFI. Please be further advised that the submission of false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

This RFI is exempt from the approval requirements of the Paperwork Reduction Act, of 1980, as amended, 44 U.S.C. § 3501, et seq.

Enclosed with this letter is a Small Business Regulatory Enforcement Fairness Act (SBREFA) information sheet, *U.S. EPA Small Business Resources*, containing information on compliance assistance resources and tools available to small businesses. SBREFA does not eliminate your responsibility to comply with the CWA or respond to this RFI, nor does it create any new rights or defenses under law.

Your response to the RFI must be submitted within thirty (30) days of receipt of this letter to:

U. S. Environmental Protection Agency, Region 8
Dennis Jaramillo (8ENF-W-WO)
1595 Wynkoop Street
Denver, CO 80202-1129

Mr. Jaramillo can assist you with any questions regarding this RFI; he may be reached at (303) 312-6203. When calling, please refer to your company's name and the NRC report number referenced above. An electronic version of the RFI is available. Contact Mr. Jaramillo at the number above or at jaramillo.dennis@epa.gov for a copy. Inquiries of a legal nature should be directed to at Jim Eppers, Supervisory Attorney, at (303) 312-6893.

Sincerely,



James H. Eppers, Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Sincerely,



Kenneth M. Champagne, Chief
OPA and Wetlands Enforcement Unit
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

1. Instructions and Definitions
2. Request for Information
3. Statement of Certification Form
4. Small Business Resources Information Sheet

Instructions

1. Please provide a separate narrative response to each and every question and subpart of a question set forth in this RFI.
2. Precede each answer with the number of the question to which it corresponds.
3. If the question is not applicable to the incident, please indicate N/A and state why the question is not applicable.
4. If information or documents not known or not available to you as of the date of submission of a response to this RFI should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
5. For each document produced in response to this RFI, indicate on the document, or in some other reasonable manner, the number of the question to which it corresponds.
6. The terms "and" and "or" shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of this RFI any information which might otherwise be construed to be outside its scope.
7. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate, in the context of a particular question or questions.
8. All questions asked in the past tense should be interpreted to apply to the present as well as the past.
9. The Statement of Certification must be signed by a responsible official of the owner or operator.
10. If you wish to assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2 covering any portion of the information submitted, you must assert such claim at the time you submit your response. You may assert such claim by including a stamped or typed notice employing language such as "Company Confidential," "Trade Secret," "Proprietary," etc. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in 40 C.F.R. Part 2, Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

Definitions

The following definitions shall apply to the following words as they appear in the questions:

1. The terms "you," "your" or "Respondent" shall mean the addressee of this RFI, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.
2. The term "describe" shall mean provide in detail all information you are aware of that may relate in any way to the information, person, or document referenced.
3. The terms "document" and "documents" shall mean any writing, recording, or stored information, and includes, but is not limited to, writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration, and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations, including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, fax, email, report, notice, message, analysis, comparison, graph, chart, interoffice or intra-office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording or any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and, (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.
4. The term "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping, but excludes discharges in compliance with a permit under section 402 of the CWA.
5. The term "October 13, 2015 Discharge" means the discharge from the train tanker car commencing on or about October 13, 2015, of oil, a pollutant, or other contaminant, within the City of Fort Collins, Colorado, near the intersection of South Lemay Avenue and Riverside Avenue, and that was the subject of NRC Report No. 1130799.
6. The term "facility" shall mean "any mobile or fixed, onshore or offshore building, property, parcel, lease, structure, installation, equipment, pipe, or pipeline (other than a vessel or a public vessel) used in oil well drilling operations, oil production, oil refining, oil storage, oil gathering, oil processing, oil transfer, oil distribution, and oil waste treatment, or in which oil is used, as described in 40 C.F.R. part 112, Appendix A. The boundaries of a facility depend on several site-specific factors, including but not limited to, the ownership or operation of buildings, structures, and equipment on the same site and types of activity at the site. Contiguous or non-contiguous buildings, properties, parcels, leases, structures, installations, pipes, or pipelines under the ownership or operation of the same person may be considered separate facilities. Only this definition governs whether a facility is subject to this part."

7. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
8. The term "identify" means, with respect to a corporation, limited liability company, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (*e.g.*, corporation, partnership), organization, if any, and a brief description of its business.
9. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the author and recipient(s), and to describe the substance or the subject matter.
10. The term "oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.
11. The terms "owner" and "operator" mean any person owning or operating an onshore facility or an offshore facility, and in the case of any abandoned offshore facility, the person who owned or operated or maintained the facility immediately prior to such abandonment.
12. The term "person" includes an individual, firm, corporation, association, or partnership.
13. The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. This term does not mean (A) "sewage from vessels or a discharge incidental to the normal operation of a vessel of the Armed Forces" within the meaning of 33 U.S.C. §1322 of this title; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.
14. The term "sheen" means an iridescent appearance on the surface of water.
15. The term "sludge" means an aggregate of oil or oil and other matter of any kind in any form other than dredged spoil having a combined specific gravity equivalent to or greater than water.
16. The terms "Spill Prevention, Control, and Countermeasure Plan," "SPCC Plan," or "Plan" means the document required by 40 C.F.R. §112.3 that details the equipment, workforce, procedures, and steps to prevent, control, and provide adequate countermeasures to a discharge.
17. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in Section 311 of the Clean Water Act, 33 U.S.C. § 1321, or the regulations found at 40 C.F.R. Part 110, in which case the statutory or regulatory definitions shall apply.

REQUEST FOR INFORMATION

This information is requested pursuant to section 308(a) of the Clean Water Act, as amended by the Oil Pollution Act of 1990, 33 U.S.C. § 1318(a). This Request for Information (RFI) is not subject to the approval requirements of the Paperwork Reduction Act, 44 U.S.C. § 3507.

Instructions: Instructions are included in the instructions portion of this RFI. Please refer to the definitions portion of this RFI when terms are used subsequently in this document.

1. Describe the type of facility (e.g., railcar, locomotive, truck) from which oil or any other pollutant was discharged.
2. Indicate whether you own (or at the time of the discharge owned) the facility.
3. Indicate whether you operate (or at the time of the discharge operated) the facility.
4. If the facility from which the discharge occurred is (or at the time of the discharge was) owned or operated by an entity other than you, provide the name of each such owner and each operator, indicate whether each such entity is (or at the time of the discharge was) an owner or operator (or both), indicate whether each owner and operator is a corporation, partnership, LLC, individual, or other type of entity, describe the relationship, if any, between you and each such owner or operator, and, if applicable, indicate the state in which the owner or operator was incorporated or organized.
5. Describe the type of discharge (e.g., derailment, spill in a rail yard, collision).
6. State the time and date of the discharge.
 - a. State the date and time the discharge was discovered.
 - b. State the name of the individual who discovered the discharge and how that person discovered it.
 - c. State the date that the discharge commenced.
 - d. State the date and time the discharge ended.
 - e. State the total number of days the discharge occurred.
 - f. Describe the weather conditions (e.g., temperature, precipitation, cloud cover) at the time of the discovery of the discharge.
7. State the total quantity and type of oil discharged, including the chemical name, formula, and specific gravity.
 - a. State how the quantity discharged was determined.
 - b. Provide copies of the pertinent Material Safety Data Sheets, if available.

Great Western Railway, LLC NRC Report No. 1130799
Clean Water Act, Section 308 Information Request

- c. State the type, total capacity and purpose of the container, tank or equipment from which the oil was discharged.
 - d. Describe any secondary containment, or leak/spill prevention equipment for the facility and, if applicable, the quantity of the discharged material that was captured and/or retained by that equipment.
 - e. Describe the basis for your approximations. Your response must include all information that was considered, evaluated or relied upon in determining your approximations.
8. State whether any other pollutant other than oil was discharged, and provide your best estimate of the total amount of each such pollutant.
- a. If the material discharged was a mixture, provide the percentages of pollutants in the mixture or solution.
 - b. Provide a copy of each pertinent Material Safety Data Sheet, if available.
 - c. List each, if any, pollutant that was discharged that meets the definition of a "hazardous substance" in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601(14).
9. If there was any sampling of the discharged oil or other pollutant, the receiving water, or the soil impacted by the discharge, provide, for each sample: a description and map showing where the sample was collected, the date and time the sample was collected, the name of the individual who collected the sample, the name of the laboratory that analyzed the sample, and the results of the sample analysis.
10. Provide details on the specific location of the discharge, including:
- a. The latitude, longitude, datum, county and state,
 - b. The street address and city, if applicable,
 - c. The township, range, quarter-sections and fractions for rural areas, and
 - d. Milepost location, if applicable.
11. State if the discharge reached or threatened to reach any waterway or body of water (water), or any drainage leading to that water, including any wetlands, marshes or sewers. If it did:
- a. Include the names of all waterways or bodies of water that the discharge reached or threatened. Additionally, list the names of all downstream receiving waterways or bodies of water, regardless of whether the spill affected the water bodies.
 - b. Describe the overland pathway(s) from the facility at which the discharge occurred to a drainage connecting to that water, including direction, elevation and topographic description.

Describe any natural or man-made containment that intercepted the flow path (include photos and topographic or other maps of the flow path).

- c. State the quantity and nature of the discharge that did not reach water and describe how that was determined.
- d. Describe any film, sheen, discoloration, or iridescent appearance observed on the surface of any water or adjoining shoreline caused by the discharge. Provide the name and contact information for the person who made the observation.
- e. Describe any sludge or emulsion deposited on the adjoining shorelines or beneath the surface of any water impacted by the discharge. Provide the name and contact information for the person who made the observation.
- f. If you take the position that any water impacted by the discharge is not a "navigable water" as defined in section 502(7) of the Act, 33 U.S.C. § 1362(7), explain the basis for this position.

12. Describe any damage from the discharge:

- a. to animal life - number and species of injured or dead fish, birds, animals, insects, etc.
- b. to vegetation - how many feet, acres, or miles of land were affected, type of vegetation, crops, timber, forest, prairie grasses, scrub, etc.

13. List and describe each, if any, sensitive environment, wildlife habitat or refuge, endangered species, water well, or drinking water intake in the area of the discharge. State the location and distance of each from the discharge.

14. Provide the date and time the discharge was controlled.

- a. Describe the steps to control and clean up the discharge, including dates and times of each measure.
- b. Describe steps taken to mitigate any environmental damage from the discharge.
- c. Describe the quantity, if any, of the spilled material that has remained in the environment.
- d. Indicate when you considered any cleanup operations complete and when all discharged material was removed from the water and/or any adjoining shoreline.
- e. Estimate the cost of all cleanup operations.

15. Was a dispersant, bioremediation agent or surfactant (agent) used? If it was, provide the following:

- a. Name of agent(s) that was applied.
- b. Give the latitude and longitude of each location where the agent was applied and/or provide a map indicating the locations of all applications.

- c. Provide the method of application and proportions of the agent applied.
 - d. Provide the name of the individual who applied the agent and his or her relationship to the owner and operator of the facility.
 - e. Was permission granted from a Federal On-Scene Coordinator (OSC) prior to the application of any agent? If so, provide the name of the person who granted this permission, and the date it was granted? Provide documentation of permission being granted.
16. Describe in detail the cause (e.g., equipment failure, operator error, inadequate procedures, maintenance, etc.) of the discharge.
- a. Describe the events leading up to the discharge.
 - b. Describe any measures taken to prevent any future discharges from this source.
 - c. Describe any measures taken to prevent any future discharges from this source.
17. Identify each individual (including name, title, business phone number and address) who was present at any time from the beginning of the discharge to the completion of cleanup or related follow-up work. For each individual, describe what he or she did during that time period that related in any way to the discharge (e.g., assessing the discharge, initiating spill response, supervising the cleanup).
18. Identify any additional individual(s) (including name, title, business phone number and address) who may have knowledge of the facts surrounding the discharge.
19. List the federal, state, tribal, and/or local agencies to which the discharge was reported. Indicate the date and time of each notification and the name, telephone number, and address of each official contacted. Include any identifying numbers (e.g., NRC number, spill number) assigned by the agency to the discharge.
20. Describe any penalties assessed or orders issued by any governmental entity for the discharge. Provide the name of each entity assessing any such penalty or order, the amount of each penalty, the date each penalty or order was assessed or issued, and any case or order numbers.
21. What was the age of the facility from which the discharge occurred at the time of the discharge? If you do not know the answer to this question, identify all persons who may have any information that may assist the EPA in determining the age of the facility.
22. Describe any inspections conducted on the facility and section of track where the discharge occurred that you or any entity hired by you conducted at any time in the year prior to the discharge.
- a. Describe the inspection results.
 - b. Provide any applicable inspection reports.

23. Describe any and all maintenance, repair, or other work performed on the facility or section of track where the discharge from which the discharge occurred during the year prior to the discharge.
 - a. Provide any maintenance plans in effect for the section of track and/or vehicle from which the discharge occurred during the year prior to the discharges.
 - b. Provide any maintenance, repair or similar reports written for the section of track and/or vehicle from which the discharge occurred during the year prior to the discharges.
24. Provide any additional information, reports, photographs, etc., that you have related to the discharge and the facility from which the discharge occurred. For any photographs taken in color, please submit color copies. If the you have any of the following documentation in your possession or readily accessible, provide copies of the following:
 - a. USGS topographic maps (of the facility and of the discharge).
 - b. Geographic Information System (GIS) maps or data.
 - c. Aerial photography, both current and historical.
 - d. Hydrologic flow and fate or transport models.
 - e. Wetland and stream functional models.
 - f. Stream profiles and culvert sizes.
 - g. Stream gauge data.
 - h. Precipitation records.
25. List the name, address, and telephone number of the individual answering this Request for Information, and describe that individual's relationship to you (e.g., employee, contractor).

26.

STATEMENT OF CERTIFICATION

I certify under the penalty of law, that I have personally examined and am familiar with the information submitted in this document and all attachments, and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information.

Signature

Date

Printed Name

Title and Name of Company

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otag/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills -

<http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.